

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

TONY CAMPBELL,

Plaintiff,

No. CIV S-04-1292 MCE DAD P

vs.

J. BAILEY, et al.,

Defendants.

ORDER

Plaintiff is a state prisoner proceeding pro se with this civil rights action. On November 10, 2005, plaintiff filed a notice of appeal together with untimely objections to findings and recommendations that were filed on September 14, 2005. The findings and recommendations were adopted on November 2, 2005, and the action was closed on that date.

Although plaintiff alleges that his objections were previously placed in the mail to the court, the allegation is not supported by evidence. Moreover, the arguments made in the objections are not supported by any evidence that plaintiff exhausted available administrative remedies prior to bringing this action.<sup>1</sup>

<sup>1</sup> In his notice of appeal, plaintiff states erroneously that this action was dismissed for failure to file objections. The case was dismissed for failure to exhaust available administrative remedies prior to bringing this action. The dismissal was based on the evidence offered by plaintiff himself in opposition to defendants' motion to dismiss.

1 IT IS HEREBY ORDERED that plaintiff's untimely objections to the findings  
2 and recommendations filed September 14, 2005, will be disregarded.

3 DATED: November 17, 2005.

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6 DALE A. DROZD  
7 UNITED STATES MAGISTRATE JUDGE

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